THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.21012 of 2006

Dated:11th October, 2006

Between:

K.Ramchander.

…..PETITIONER

AND

Andhra Pradesh State Road Transport Corporation represented by its Vice Chairman & Managing Director, Musheerabad, Hyderabad & another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P. No. 21012 of 2006

ORDER:

Assailing the proceedings, issued by respondent No.2 in proceedings No.B2/255 (3)06-WM:KR dated 22-8-2006, placing the petitioner under suspension, the present writ petition is filed.

Petitioner who is a Mechanic Grade-II in A.P.State Road Transport Corporation, was suspended by the 2nd respondent with effect from 17-8-2006 by proceedings No.B2/255(3)06-WM:KR dated 22-8-2006, on the ground that he was arrested and was in custody for 48 hours in connection with the crime in Crime No.221 of 2006 for the offence under Section 306 of I.P.C on the allegations that one Shri A. Achaiah, a Khalasi in the Corporation attempted suicide for the harassment and torture meted out by the petitioner.

Learned counsel for the petitioner submitted that the petitioner has filed representation dated 4-9-2006 before the 2nd respondent seeking revocation of suspension but no action had been taken on the representation till now. He submits that the action of respondent No.1 in continuing him under suspension without assigning any reasons, is illegal and arbitrary, and in support of his

submission that continuing him under suspension indefinitely without considering the public interest and the impact the case has on the employee, is illegal, he placed reliance on a judgment of a Division Bench of this Court in ***P.Rajender Vs. Union of India***[1].

Learned Standing Counsel for the respondents submitted that the petitioner cannot be reinstated until the criminal case registered against him is decided, and until conclusion of the criminal case, in public interest, it is necessary to continue the petitioner under suspension.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

On the ground that a case for the offences under
Section 306 IPC has been registered against the petitioner, and in connection with which he was remanded to judicial custody, respondent No.2 vide orders dated 17-8-2006, placed the petitioner under suspension until the termination of the criminal proceedings. Admittedly, the criminal proceedings against the petitioner are not terminated, and it is stated that major part of the investigation is completed.

No doubt, the petitioner has been placed under suspension in public interest, but apart from public interest, the authority is required to take into consideration relevant facts and attendant circumstances and to what extent the public interest is protected if the employee is under suspension. In ***P. Rajender v. Union of India***, a Division Bench of this Court considered similar issue, as is appearing in the present case, and held thus:

Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is sine qua non for passing such order of suspension. Before passing of an order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if the delinquent officer is not placed under suspension.

The Division Bench further held as follows:

The question as to when the petitioner had undertaken the second marriage and whether it had any impact on the petitioner's continuing to work in public service despite the fact that investigation had ready been completed and charge-sheet had also been filed in a case filed by the petitioner's wife, were relevant factors to be taken into consideration at the time of passing the order.

From the above it is clear that the appropriate authority before passing order of suspension shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest suffer if the delinquent officer is not placed under suspension.

In the instant case, respondent No.2 except stating that the petitioner was arrested and remanded in connection with Crime No.221 of 2006 of II Town Police Station, Karimnagar, for the offence punishable under Section 306 of I.P.C, has not assigned any reason whatsoever in placing the petitioner under suspension. Respondent No.2 while placing the petitioner under suspension, was expected to consider whether the continuance of the petitioner in the office, would affect the discharge of his duties or will cause prejudice to the investigation, and more so when the case registered against the petitioner has nothing to do with the discharge of his duties. But

respondent No.2 without considering these aspects placed the petitioner under suspension, and though the petitioner was placed under suspension on 22.08.2006, till date respondent No.2 had not reviewed the necessity of continuing the petitioner under suspension.

In the result, the writ petition is disposed of. Respondents are directed to review the case of the petitioner for revocation of suspension, in the light of the observations of the judgment of the Division of this Court in ***P. Rajender v. Union of India*** and keeping in view the fact that the petitioner has not committed any irregularities or malpractices while discharging his duties, and the investigation of the case in which he is said to be involved, has already been completed and charge sheet is also filed, and pass appropriate orders expeditiously.

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(N.V. RAMANA, J.)

Date:11th October, 2006.
GRK

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[1] 2001 (5) ALD 290 (DB)